

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

FAUSTINO XAVIER BETANCOURT-COLON

Plaintiff

Vs.

CIVIL NO. 2021-

PLAZA CAPARRA LLC, D/B/A  
PLAZA CAPARRA;  
SUPERMERCADOS MAXIMO, INC.  
FULANOS DE TAL 1-100

Defendants

**NOTICE OF REMOVAL**

**TO THE HONORABLE COURT:**

The appearing Defendant, Supermercados Maximo, Inc. (hereinafter “SuperMax”) through its undersigned attorney, respectfully pleads and prays as follows:

**I. Introduction**

On May 25, 2021, Plaintiff, Faustino Xavier Betancourt-Colon (hereinafter “Betancourt” or “Plaintiff”), filed a civil action before the Commonwealth of Puerto Rico’s Court of First Instance, Bayamon Superior Court, under Civil No. BY2021CV02012. Several days later (June 25, 2021), the appearing party was served with service of process. Both the Complaint and service of process of summons are attached herein as Exhibits 1 and 2,<sup>1</sup> respectively.

As pleaded by Plaintiff in his Complaint, all claims made therein are based on Defendants’ purported violations of the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*) and the Rehabilitation Act of 1973 (29 U.S.C. §701 *et seq.*). The afore-mentioned suit is thus, a

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<sup>1</sup> Since Exhibit 2 of this Notice of Removal is in the Spanish language, SuperMax informs that in compliance with the United States District Court for the District of Puerto Rico Local Rules, Rule 5(c) it will file a Motion for Leave and request for extension of time to submit the certified translation of the same.

civil action over which this Honorable Court has original jurisdiction that is removable to this District Court. The Court's original jurisdiction is even conceded by Plaintiff in his Complaint. (*See*, Exhibit 1, ¶ 9 at page 5).

## **II. Grounds for Removal**

Removal of this case is proper under 28 U.S.C. §§1331 because Plaintiff's case presents a federal question.

### **A. Federal Question**

28 U.S.C. § 1331 confers original jurisdiction to this Court of "all civil actions arising under the Constitution, laws or treatise of the United States." As stated in its Complaint, Plaintiff seeks injunctive and declaratory relief against Defendants for alleged violations under the Americans with Disabilities Act ("ADA"), particularly, denial of full and equal enjoyment of Defendants' goods and services, as well as discrimination for non-compliance with the Rehabilitation Act. Furthermore, Plaintiff's claims against Defendants consequently arise under the laws of the United States, which brings them within the scope of this Court's federal question jurisdiction. The case is therefore removable pursuant to 28 U.S.C. § 1441(a).

## **III. Compliance with 28 U.S.C. § 1446**

In accordance with 28 U.S.C. § 1446 (procedure for removal of civil actions), SuperMax attaches copy of the following to this Notice of Removal:

- (i) Complaint; and
- (ii) Service of process of Summons.

These documents (Exhibits 1 and 2) constitute all process, pleadings, and orders served on the appearing party to date in Civil No. BY2021CV02012.

Furthermore, removal of the action is timely under 28 U.S.C. § 1446, as this Notice is being filed within 30 days after receipt of a copy of the Plaintiff's Complaint. Counsel for Co-Defendant

Plaza Caparra, LLC, D/B/A/ Plaza Caparra, María F. Vélez Pastrana, specifically expressed her consent to this removal on July 19, 2021. As also required by 28 U.S.C. § 1446(d), SuperMax will, upon filing of this Notice of Removal, file a copy of the same with the Commonwealth of Puerto Rico's Court of First Instance, Bayamon Superior Court and will further serve copy upon Plaintiff.

**IV. Non-Waiver of Defenses**

By removing this action from the Commonwealth of Puerto Rico's Court of First Instance, Bayamon Superior Court, Defendant does not waive any defenses available to them. Furthermore, by removing this action from the Commonwealth of Puerto Rico's Court of First Instance, Bayamon Superior Court, Defendant does not admit any of the allegations contained in Plaintiff's Complaint.

**WHEREFORE**, the appearing party respectfully prays that this Honorable Court take notice of the removal of Civil No. BY2021CV02012 and include the same in its docket, with the appropriate assignment of a case docket number.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico this 26 day of July 2021.

**I CERTIFY:** That a true and exact copy of the foregoing Notice and attachments has been sent by e-mail to the attorney of record of the Plaintiff, Jose Carlos Vélez-Colon; [jvelez@velezlawgroup.com](mailto:jvelez@velezlawgroup.com) and to the attorney of record for Co-Defendant Plaza Caparra, LLC, D/B/A/ Plaza Caparra, María F. Vélez Pastrana; [mvelezpastrana@gmail.com](mailto:mvelezpastrana@gmail.com).

*s/Raquel M. Dulzaides*  
USDC-PR No. 201406

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